

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(LAND DIVISION)**

**AT DAR ES SALAAM**

**LAND CASE NO.57 OF 2020**

**GUNGUTALA MKOROMA..... PLAINTIFF**

**VERSUS**

**NICK ITUNGA.....1<sup>ST</sup> DEFENDANT**

**THADEI SIJAONA.....2<sup>ND</sup> DEFENDANT**

**THE REGISTERED TRUSTEES OF THE ANGLICAN CHURCH OF  
TANZANIA.....3<sup>RD</sup> DEFENDANT**

**COMMISSIONER FOR LANDS, MINISTRY OF LANDS, HOUSING  
AND HUMAN SETTLEMENTS.....4<sup>TH</sup> DEFENDANT**

**THE MINISTER FOR LANDS AND HUMAN SETTLEMENTS  
DEVELOPMENT.....5<sup>TH</sup> DEFENDANT**

**ATTORNEY GENERAL.....6<sup>TH</sup> DEFENDANT**

**R U L I N G**

*Date of Last Order: 05.05.2022*

*Date of Ruling: 19.05.2022*

**T. N. MWENEGOHA, J.**

On 5<sup>th</sup> of May 2022, when the case was called for the Final Pre-Trial Conference, the court raised three issues *suo motu* and asked the parties here in above to address it on the following areas; -

1. Whether the cause of action arose in 2004.
2. Whether annexure GM-3 is part of the plaint to warrant recognition of unpleaded issues introduced during the Final Pre-Trial Conference.
3. Legal Status of the 2<sup>nd</sup> defendant.

The parties complied with the order and addressed the court by way of written submissions. Now the court proceeds to decide on the said issues accordingly, after going through the submissions by the parties herein above through their respective counsels. However, I will not reproduce their submissions in this ruling, but rather I will use the same in my analysis of the issues listed above.

As to when the cause of action arose (between 2004 or 2008), I have satisfied myself that, as per the plaint at hand, the cause of action arose in 2008. There is nothing on record to suggest otherwise. This was also insisted by plaintiff's counsel, Stella Simkoko who quoted paragraph 13 of the plaint to prove that, the cause of action arose in 2008. This was well supported by the 1<sup>st</sup> defendant's counsel.

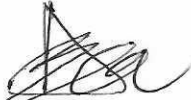
On the 2<sup>nd</sup> issue, it has been well argued and I agree with the counsel for the plaintiff as well as that of the 1<sup>st</sup> defendant that, annexure GM-3 is part of the plaint. It has been annexed with it and it forms part of the same.

Lastly, on the status of the 2<sup>nd</sup> defendant, he has been involved because he acquired one of the plots after the land in question was subdivide. See paragraph 20 of the Plaint. Hence, properly included in the suit.

In the end, I find all issues to have been answered in affirmative.  
Therefore, the case is hereby ordered to proceed where it stopped, that  
is in the framing of issues.

No order as to costs.

It is so ordered.



**T. N. MWENEGOHA**  
**JUDGE**

**19/05/2022**

